

RULE

Department of Health Board of Medical Examiners

Physician Licensure and Practice; Telemedicine
(LAC 46:XLV.408 and Chapter 75)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board has amended its Rules governing the use of telemedicine as to patients who are located in this state, LAC 46:XLV.408 and .7501 et seq. The amendments are set forth herein.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. Requirement for Permit/Qualifications. A physician who does not possess a Louisiana medical license shall not engage in the practice of medicine in this state via telemedicine, as defined in Chapter 75 of these rules, unless he or she holds a telemedicine permit issued by the board. A telemedicine permit is a limited license that provides lawful authority to a physician who does not hold a current, unrestricted Louisiana medical license to practice telemedicine with respect to patients located in this state. To be eligible for a telemedicine permit an applicant shall:

A.1. - C. ...

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. - 2. ...

3. the primary location(s) from which telemedicine will be utilized by the applicant;

D.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015), LR 43:317 (February 2017).

Subpart 3. Practice

Chapter 75. Telemedicine

Subchapter A. General Provisions

§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the

following words and terms shall have the meanings specified.

* * *

Medical Practice Act or the Act—R.S. 37:1261-92, as may from time to time be amended.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

* * *

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part. A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:317 (February 2017).

§7505. Patient Relationship; Standard of Care; Location of Participants

A. ...

B. Standard of Care. The practice of medicine by telemedicine, including the issuance of any prescription via electronic means shall be held to the same prevailing and usually accepted standards of medical practice as those in traditional (face-to-face) settings. An online, electronic or written mail message does not satisfy the standards of appropriate care.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:317 (February 2017).

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or

2. holds a telemedicine permit as provided in §408 of these rules.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. ...

2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:

a. - c. ...

d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:317 (February 2017).

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;

2. - 3. ...

4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and

5. made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2146 (October 2015), LR 43:318 (February 2017).

§7513. Prohibitions

A. - B. ...

C. No physician shall utilize telemedicine:

1. - 2. ...

3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;

a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;

C.3.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:2146 (October 2015), LR 43:318 (February 2017).

Keith C. Ferdinand, M.D.
Interim Executive Director

1702#038